

MICHAEL FEUER, City Attorney
KATHLEEN A. KENEALY, Chief Assistant City Attorney
SCOTT MARCUS, Chief, Civil Litigation Branch
GABRIEL DERMER, Assistant City Attorney (SBN 229424)
FELIX LEBRON, Deputy City Attorney (SBN 232984)
A. PATRICIA URSEA, Deputy City Atty (SBN 221637)
200 N. Main Street, City Hall East, Room 675
Los Angeles, CA 90012
Telephone (213) 978-7569
Facsimile (213) 978-7011
Felix.Lebon@lacity.org
Patricia.Ursea@lacity.org

Attorneys for Defendant, CITY OF LOS ANGELES

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JANET GARCIA, et al.

Plaintiffs,

v.

CITY OF LOS ANGELES,

Defendant.

Case No.: 2:19-cv-6182-DSF-PLA
[Assigned to Judge Dale S. Fischer]

DISCOVERY MATTER

**DECLARATION OF HOWARD
WONG ISO CITY'S OPPOSITION
TO PLAINTIFFS' MOTIONS TO
COMPEL DISCOVERY**

Date: April 28, 2021
Time: 10:00 a.m.
Crtm: 780

Complaint Filed: July 18, 2019
Discovery Cut-Off: July 26, 2021
Pretrial Conference: Feb. 14, 2022
Trial Date: March 15, 2022

DECLARATION OF HOWARD WONG

I, HOWARD WONG, hereby declare:

1. I am the Assistant Chief Environment Compliance Officer for City of Los Angeles Department of Public Works, Bureau of Sanitation's ("LASAN") Livability Services Division ("LSD") and Watershed Protection Division ("WPD"). I have personal knowledge of the facts contained herein, and if called to testify to the truth of these matters, I could and would competently do so.

2. I have worked for LASAN for over 18 years. I started as an environmental compliance inspector and promoted to various levels of seniority before becoming the Assistant Chief Environmental Compliance Officer ("Assistant Chief") in November 2018.

3. My responsibilities as Assistant Chief include management and oversight of LSD environmental compliance officers/inspectors and staff supporting the City's Comprehensive Cleaning and Rapid Engagement Program ("CARE+" and "CARE"), Clean Streets LA ("CSLA"), Operation Healthy Streets ("OHS"), Homeless Outreach and Proactive Engagement ("HOPE"), and WPD Environmental inspection, enforcement and emergency-response operations to mitigate unsanitary, hazardous, and/or dangerous conditions and cleanups the City's public right-of-way. As part of my responsibilities, I manage Senior Environmental Compliance Inspectors and Environmental Officers/Inspectors and approve authorizations for posted cleanups and unposted compliance and emergency-response operations. I may review posting surveys, cleanup and compliance reports, and health hazard assessments prepared by environmental compliance officers/inspectors for these operations. I may provide training and instruction to environmental officers/inspectors on matters such as hazardous materials and characteristics of hazardous materials, use and maintenance of personal protection equipment, identifying and mitigating public health and safety standards, requirements for transporting and disposing of hazardous materials, procedures for removing and

1 storing property, and other operating protocols.

2 4. LASAN is the designated administrative agency for compliance under Los
3 Angeles Municipal Code (“LAMC”) 56.11. LSD is an LASAN division implemented to
4 support CARE, CARE+ and illegal-dumping cleanup programs. LASAN workers who
5 previously supported CSLA, OHS, HOPE, and public right-of-way compliance and
6 emergency response under different LASAN divisions were essentially consolidated into
7 one division under LSD. WPD Senior and Environmental Compliance
8 Officers/Inspectors who previously supported CSLA, OHS, HOPE, and other public
9 right-of-way operations were included among the workers assigned to LSD.

10 5. CARE+ and CARE operations commenced throughout the City starting on
11 or around October 1, 2019. CARE+ provides public health services to encampments,
12 including among other services, mobile showers, delivery of trash bins and regular trash
13 pickup, outreach to connect homeless residents with services, and posted comprehensive
14 cleanups of encampments. CARE provides resources to clean the public right-of-way
15 and address compliance and emergency-response to mitigate illegal dumping and/or
16 items stored in the public right-of-way, of which include hazardous material, contraband,
17 threats to public health and safety, items impeding accessibility under the Americans with
18 Disabilities Act (ADA), or items blocking City operations or ingress/egress.

20 6. LSD’s CARE team generally consists of two Environmental Compliance
21 Inspectors (“ECI”), one Refuse Truck Collection Operation (“RTCO”), and one
22 Maintenance Laborer (“ML”). LSD uses a third-party company, Clean Harbors
23 Environmental Services, Inc., for transporting and disposing of certain hazardous
24 materials in accordance with state and federal regulations. CARE teams also include Los
25 Angeles Housing Services Authority (“LAHSA”) outreach workers.

26 7. ECIs are required to take a 40-hour OSHA Hazardous Waste Operations and
27 Emergency Response (HAZWOPER) course and a subsequent annual refresher course,
28 OSHA Blood Borne Pathogen, OSHA Medical Surveillance, and OSHA Heat Illness &

1 Injury and DOT HM 181/232. ECI training may also include Hazardous Materials
2 Specialist (HAZMAT) certification and or other supplemental training. Other than
3 required formal training, additional training occurs in the field, during safety tailgates, or
4 on an as-needed basis by LSD, the Unified Homeless Resources Center (“UHRC”),
5 LAPD, or LAHSA. The additional trainings may occasionally involve written materials,
6 but that is not always the case. There is not a centralized database or repository
7 containing all LAMC 56.11 or encampment cleanup training materials or records.

8 8. LASAN adopted LAMC 56.11 Standard Operating Protocols in April 2016,
9 which LASAN amended in September 2018. The SOPs outline the operating guidelines,
10 designation of tasks, and scope of work under LAMC 56.11, including for encampment
11 cleanups and compliance actions.

12 9. The SOPs contain guidelines for conducting comprehensive posted cleanups.
13 ECIs survey cleanup areas and post written notices of a major cleaning at the cleanup
14 location a minimum of 24 hours and no more than 72 hours before the official date and
15 start time for the cleanup under the SOPs. ECIs take pictures of the notices posted at the
16 cleanup location and prepare a posting survey.

17 10. ECIs arrive at the cleanup location and prepare to commence operations no
18 earlier than the posted start time. Once the cleanup area has been vacated, ECIs inspect
19 the area. Sharps, trash, debris, hazardous materials/waste, and human waste are collected
20 and sent to disposal. Any weapons, ammunition, and explosives are identified and
21 removed by LAPD. ECIs assess health and safety hazards on items remaining in the
22 posted cleanup area.

23 11. Common health and safety hazards encountered during cleanups include
24 human waste excretions found on property, sidewalks or gutters, which may infect others
25 with hepatitis or gastrointestinal diseases. Discarded hypodermic needles and sharps are
26 also frequently encountered on the public right-of-way and expose the public to
27 accidental pricking and potential injection of viruses, such as hepatitis, HIV, and other
28

1 blood-borne diseases. Rodent feces are also common and create risk of exposure to
2 Typhus infections. Flammable materials, like propane and butane, create fire hazards.
3 Other commonly encountered hazards include lithium batteries that ignite fires if
4 disposed of improperly, car batteries, pesticides, insecticides, aerosols, bleach and other
5 chemical cleaning products.

6 12. ECIs document items determined to be hazardous during the cleanup
7 inspection on a form called a Health Hazard Checklist. Materials identified as hazardous
8 materials and wastes, such as toxics, ignitables, corrosives, or sharps are disposed of at
9 approved treatment, storage and disposal facilities. Certain hazardous materials, such as
10 flammables, corrosives, or sharps, must be disposed at certain facilities. ECIs identify
11 hazardous materials so that they are sent to the proper facilities for disposal.

12 13. During the cleanup operations, non-hazardous excess property at the cleanup
13 site is bagged and tagged for identification purposes. ECIs post notices at the site
14 informing individuals where non-hazardous property may be recovered.

15 14. Chrysalis is an independent contractor that operates the Bin, a storage
16 facility that provides involuntary and voluntary storage for homeless individuals under an
17 agreement with LAHSA. ECIs deliver non-hazardous property to storage and complete a
18 chain of custody form transferring custody of property at the storage facility to Chrysalis.
19 Following the transfer, Chrysalis handles the storage, return and disposition of the
20 property and maintains its own storage records. LSD does not track that information
21 following the transfer of custody at the storage facility.

22 15. LSD also conducts unposted compliance and response to immediate threats
23 to the health and safety of the public that can be conducted the same day or in less than
24 24 hours. These unposted compliance and response to immediate threats to the health
25 and safety of the public were previously referred to as HOPE/Rapid-Response cleanups
26 and now fall under the CARE program. LSD conducts CARE operations to mitigate
27 public health and safety threats in the public right-of-way; to clear obstructions in the
28

1 public right-of-way impeding City operations, blocking ADA access, or blocking ingress
2 or egress into a building, parking lot, loading dock or other building entrance; to remove
3 attachments to public property; and to remove construction materials, appliances,
4 furniture, mattresses, and other large bulky items from the public right-of-way. The
5 SOPs provide guidelines for conducting these operations.

6 16. ECIs prepare reports and metrics documenting encampment cleanups, and
7 compliance actions as part of their regular duties using the Watershed Protection
8 Information Management System (“WPIMS”).

9 17. WPIMS is a system and technology that is approximately 15 years old and
10 provides access to forms used to generate reports for WPD and LSD operations,
11 including encampment cleanups and environmental and stormwater pollution cases,
12 among other operations. ECIs must select the specified form in WPIMS and enter
13 information such as the incident/case number and the dates and addresses of the incident.

14 18. Starting in 2019, WPIMS also includes itemized data collection on the
15 estimated pounds of waste, urine and feces, number of sharps, drug paraphernalia,
16 reactive and ignitable compounds that were collected during the cleanup. This
17 information was not tracked in WPIMS before 2019.

18 19. LSD and WPD personnel can attach documents to the forms saved on
19 WPIMS, such as Health Hazard Checklists, posting surveys or waste manifests. Health
20 Hazard Checklists are standardized forms that are completed manually by ECIs
21 conducting the encampment cleanups. Generally, the ECI who conducted the cleanup
22 and prepared the report would upload and save documents on WPIMS.

23 20. ECIs also take pictures during encampment cleanups or compliance actions.
24 The total number of pictures varies depending on the size and scope of the cleanup, but a
25 single incident/case could have hundreds of pictures associated with an encampment
26 cleanup. Reports generated in WPIMS generally contain several or more pictures of the
27 encampment cleanup, but WPIMS does not store all pictures associated with an
28

1 incident/case number.

2 21. LSD and WPD use the incident/case number to identify reports and
3 documents saved in WPIMS. There is no automated method for exporting documents
4 and reports saved on WPIMS. In order to obtain a document or report saved on WPIMS,
5 an ECI or other LSD staff member must manually download one document or report at a
6 time. Documents not stored in WPIMS are also identified and located by the
7 incident/case number.

8 22. Other documents associated with an encampment cleanup could include
9 hazardous and non-hazardous waste disposal records maintained by LASAN's Solids
10 Division, and authorizations for posted comprehensive cleanups maintained in LASAN's
11 Authorization Management System (AMS).

12 23. The WPIMS incident/case report identifies the ECIs who responded to an
13 incident on a specific date at a specific location based on the incident/case number.
14 WPIMS does not track the identities of the truck driver (RTCO) or maintenance laborers
15 (ML) involved in the cleanup. In order to determine that information, LSD would need
16 to obtain information regarding the RTCOs and MLs working on a particular date, their
17 route information, hours worked and work orders and then cross-reference that
18 information with the WPIMS incident/case report to identify the RTCOs and MLs.

19 24. In August 2020, LSD identified approximately 41,734 incidents/cases within
20 WPIMS constituting encampment cleanups for the period from April 1, 2016 to July 31,
21 2020. LSD identified approximately 32,730 incidents/cases constituting encampment
22 cleanups for the period from January 1, 2018 to July 31, 2020. These include cleanups
23 conducted under CARE+, CSLA, OHS, CARE, and HOPE/Rapid Response.

24 25. Additional information extracted from WPIMS for encampment cleanups is
25 contained in WPIMS excel spreadsheet CTY020222 for cleanups conducted in 2018-
26 2019 and WPIMS excel spreadsheet CTY020331 for cleanups conducted in 2020. These
27 spreadsheets contain, among other things, extracted WPIMS information regarding
28

1 incident/case numbers, dates and addresses of encampment cleanups.

2 26. In order to search for and obtain all documents relating to encampment
3 cleanups for production, LSD staff would need to reference a spreadsheet identifying all
4 41,734 incidents by the incident/case number, the address listed for the encampment
5 cleanup, date, and type of cleanup (posted comprehensive cleanup or compliance action).
6 For each identified incident/case number, LSD staff would to manually download the
7 reports and within WPIMS for the encampment cleanup and collect associated Health
8 Hazard Checklists and posting surveys, if applicable, for posted comprehensive cleanups.
9 LSD staff would also have to conduct additional searches by incident/case number for
10 encampment cleanup pictures or media files not stored on WPIMS. LSD staff would also
11 have to manually search for, collect, and assemble by incident number/case any
12 hazardous-waste disposal records, non-hazardous waste disposal records, and cleanup
13 authorizations for posted comprehensive cleanups maintained in AMS.

14 27. LSD would assign one or more ECIs to collect documents relating to all
15 encampment cleanups, but this work would be in addition to the ECI's regular work
16 duties. LSD is currently short staffed with 12 ECI positions currently vacant as a result
17 of budget cuts and ECIs transferring or promoting to other LASAN divisions. The work
18 required to collect all reports and documents relating to encampment cleanups would
19 place a huge strain on LSD's existing resources.

20 28. I estimate that it would take a total of approximately 8,347 hours to collect
21 41,734 reports and related documents for encampment cleanups dating back to April 1,
22 2016, and 6,546 hours to collect 32,730 reports and related documents for encampment
23 cleanups dating back to January 1, 2018. This is based on a conservative time estimate
24 that it would take approximately 12 minutes to obtain each report and associated
25 documents by incident/case number.

26 29. Assuming that it would take one ECI 8,347 hours to complete this task for
27 reports dating back to April 1, 2016, or 6,546 hours to collect all reports and documents
28

1 dating back to January 1, 2018, the total estimated cost of this document production
2 would be either \$433,470.69 or \$270,153.42 respectively, based on an average rate of
3 \$41.27 per hour.

4
5 I declare under penalty of perjury under the laws of the State of California and the
6 United States that the foregoing is true and correct and that this Declaration was executed
7 on April 2, 2021, at Los Angeles, California.

8
9
10 
11 HOWARD WONG
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28